

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 17, 2008**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of December 17, 2008, was called to order by Mayor Hansen at 6:00 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Prospective Sale of Real Property located at 217 East Lockeford Street, Lodi, California (APN #041-220-02); the Negotiating Parties are City of Lodi and R. Wayne Craig, Agent for Buyers Eagles Lodge of Lodi; Government Code §54956.8
- b) Review of Council Appointee - City Clerk (Government Code §54957)

C-3 Adjourn to Closed Session

At 6:00 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:45 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:02 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer and Mayor Hansen disclosed the following actions:

In regard to Item C-2 (a), the City Council provided authority to present a counter-offer for the sale of the property to the Lodi Eagles Lodge.

In regard to Item C-2 (b), the City Clerk received a favorable performance review and compensation will be agendized for open session at a future meeting.

A. Call to Order / Roll call

The Regular City Council meeting of December 17, 2008, was called to order by Mayor Hansen at 7:02 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

- B. Invocation - Ken Owen, Christian Community Concerns
- C. Pledge of Allegiance
- D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations - None

E. Consent Calendar (Reading: Comments by the Public: Council Action)

Council Member Mounce made a motion, second by Mayor Hansen, to approve the following items hereinafter set forth in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$2,038,635.43 (FIN)

Claims were approved in the amount of \$2,038,635.43.

E-2 Approve Minutes (CLK)

The minutes of December 2, 2008 (Shirtsleeve Session), December 3, 2008 (Regular Meeting), December 9, 2008 (Shirtsleeve Session), and December 11, 2008 (Special Joint Meeting w/Boards and Commissions) were approved as written.

E-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Wastewater Infrastructure Replacement Program (Project No. 4) (PW)

Approved the plans and specifications and authorized advertisement for bids for Wastewater Infrastructure Replacement Program (Project No. 4).

E-4 Adopt Resolution Approving the Sale of 1956 Galion Road Grader and Use Agreement with A.M. Stephens, Inc., of Lodi (PW)

Adopted Resolution No. 2008-239 approving the sale of 1956 Galion road grader and authorizing the City Manager to execute a use agreement with A.M. Stephens, Inc., of Lodi.

E-5 Adopt Resolution Authorizing the Purchase of Ultraviolet Light Disinfection Lamps for White Slough Water Pollution Control Facility from Coombs-Hopkins/DC Frost, of Walnut Creek (\$115,000) (PW)

Adopted Resolution No. 2008-240 authorizing the purchase of ultraviolet light disinfection lamps for White Slough Water Pollution Control Facility from Coombs-Hopkins/DC Frost, of Walnut Creek, in the amount of \$115,000.

E-6 Adopt Resolution Accepting Improvements at 955 North Guild Avenue (PW)

Adopted Resolution No. 2008-241 accepting improvements at 955 North Guild Avenue.

E-7 Adopt Resolution Accepting Improvements at 856 North Sacramento Street (PW)

Adopted Resolution No. 2008-242 accepting improvements at 856 North Sacramento Street.

E-8 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement with Premier Engineering and Land Surveying, Inc., of Turlock, for Global Positioning System Control Grid (\$59,350) and Appropriating Funds (\$66,000) to be Paid from Impact Fees (PW)

Adopted Resolution No. 2008-243 authorizing the City Manager to execute professional services agreement with Premier Engineering and Land Surveying, Inc., of Turlock, for global positioning system control grid in the amount of \$59,350 and appropriating funds in the amount of \$66,000 to be paid from Impact Fees.

E-9 Adopt Resolution Authorizing the City Manager to Extend an Agreement for Workers Compensation Claims Adjusting and Administration Services with Gregory B. Bragg & Associates, Inc. (\$107,000 Year One; \$112,000 Year Two; and \$117,000 Year Three) (CM)

Adopted Resolution No. 2008-244 authorizing the City Manager to extend an agreement for Workers Compensation claims adjusting and administration services with Gregory B. Bragg & Associates, Inc. in the amount of \$107,000 for year one; \$112,000 for year two; and \$117,000 for year three.

E-10 Adopt Resolution Authorizing Local Match from Prop 1B and Other Funds to the MK-Smart Growth Incentive Program Infrastructure Grant for Lodi Avenue Improvement Project (PW)

Adopted Resolution No. 2008-245 authorizing local match from Prop 1B and other funds to the MK-Smart Growth Incentive Program Infrastructure Grant for Lodi Avenue Improvement Project.

E-11 Adopt Resolution Authorizing the City Manager to Extend for One Year (2009) the Lodi Solar Rebate Program as Developed by the Electric Utility Department Not to Exceed \$825,940 and Making Necessary Appropriations (EUD)

Adopted Resolution No. 2008-246 authorizing the City Manager to extend for one year (2009) the Lodi Solar Rebate Program as developed by the Electric Utility Department in an amount not to exceed \$825,940 and making necessary appropriations.

E-12 Adopt Resolution Approving Network Access and Acceptable Use Policy (CM)

Adopted Resolution No. 2008-247 approving Network Access and Acceptable Use Policy.

E-13 Adopt Resolution Allowing Employees to Purchase CalPERS Service Credits with Pre-Tax Payroll Deductions (CM)

Adopted Resolution No. 2008-248 allowing employees to purchase CalPERS service credits with pre-tax payroll deductions.

E-14 Set Public Hearing for January 7, 2009, to Solicit Feedback on Potential Uses of Neighborhood Stabilization Program Funds Being Made Available by the California Department of Housing and Community Development (CD)

Set public hearing for January 7, 2009, to solicit feedback on potential uses of Neighborhood Stabilization Program funds being made available by the California Department of Housing and

Community Development.

- F. Comments by the Public on Non-Agenda Items THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Dale Edwards spoke in favor of redevelopment and Measure W, to be voted upon at the Special Election on March 3, 2009, based on the possibility of increased senior housing and benefits to the east side of town.

- G. Comments by the City Council Members on Non-Agenda Items

Mayor Mounce commended a student on his efforts in preparing an essay regarding redevelopment. She stated the 20% affordable housing requirement may be applied anywhere in the City and urged the citizens to research the information prior to making a decision on Measure W. Ms. Mounce also reported on her attendance at the League of California Cities training and quarterly meeting, stating the State is looking at tapping into funding and programs that have not been used for some time, along with increases in sales and gas tax.

Council Member Johnson requested a copy of the redevelopment essay from Mayor Mounce and urged the citizens to look at the positives and negatives of redevelopment to make an informed decision regarding Measure W. Mr. Johnson also reviewed prior election results by percentages of the Council and citizen confidence.

Mayor Hansen commended those who assisted with the kettle ringing campaign which raised \$65,000, those who participated in the bell ringing for the Salvation Army, and the Police Partners for their volunteer record. He also reported that the State had stopped all public works projects in light of the budget difficulties.

Council Member Hitchcock expressed her concerns regarding solicitors outside Target that were not a part of the Salvation Army. City Attorney Schwabauer reviewed the Pruneyard Shopping Center case and the ruling discussing an individual's right to free speech in a public forum so long as it does not violate the City's own aggressive solicitation ordinance. Mayor Hansen suggested there may be some level of fraud involved with a solicitor misrepresenting for whom he is soliciting funds.

- H. Comments by the City Manager on Non-Agenda Items

City Manager King stated the public should be aware of fraudulent solicitations around the holidays. Mr. King briefly discussed the effect on the City of the State suspending its public works projects. He stated in essence there will no longer be an ability to borrow funds for capital projects from a pooled account. He stated the direct effect is \$42,000 from a competitive grant and this money was never received from the State to begin with. He also stated there will be long-term effect of projects being back logged.

City Attorney Schwabauer stated he wanted to make clear the counter-intuitive thinking that may be occurring regarding Measure W. Mr. Schwabauer clarified that a yes vote meant that the voter was in agreement with the majority opinion of the City Council and a no vote meant the voter was

in agreement with the minority opinion of the City Council.

I. Public Hearings

I-1 Public Hearing to Consider Resolution Approving Reimbursement Agreement No. RA-08-01 for Public Improvements Constructed with the Vintner's Square Shopping Center (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution approving Reimbursement Agreement No. RA-08-01 for Public Improvements constructed with the Vintner's Square shopping center.

City Manager King briefly introduced the subject matter of the proposed reimbursement agreement for the Vintner's Square Shopping Center.

Junior Civil Engineer Chris Boyer provided a presentation regarding the proposed reimbursement agreement for public improvements constructed with the Vintner's Square Shopping Center. Mr. Boyer specifically discussed the location of the site, area of benefit and trunk line, street improvements, storm drainage, wastewater and water, pavement, signalized intersection distribution between parcels, water line extension, payment agreement expiration after 15 years, and possibilities of property development.

In response to Council Member Hitchcock, Mr. Boyer stated there is no obligation for reimbursement after 15 years. City Attorney Schwabauer stated the 15-year term specifically comes from the Government Code. Mr. Boyer stated the current General Plan does include the subject parcels for wastewater and only those parcels north of the Lodi Shopping Center at this point are a part of the benefit area for the street improvements. Interim Community Development Director Rad Bartlam stated both areas are a part of the General Plan and part of the Southwest Gateway project.

In response to Mayor Mounce, Mr. Boyer stated the properties on the south side of Taylor Road are a part of the County and would need to pay their own way unless they were to annex, in which case they could tap into the City if there is a failure. Mr. Boyer stated if they do hook up, they would also pay regardless of annexation.

In response to Council Member Hitchcock, Mr. Boyer stated allocations are based on frontage of property, overall acreage, specific benefits, and type of improvement. Mr. Schwabauer stated there is no discretion by the City as it is set forth by the Government Code and municipal law. Mr. Boyer stated the only consideration is for something that may be temporary. Mr. Schwabauer stated the only discretion is whether or not the City will pay for oversized improvements, and if the property owner pays then a reimbursement agreement must be offered.

In response to Council Member Hitchcock, Mr. Boyer stated most concerns were from the Taylor Road property owners and staff explained there is no lien, annexation is still allowed, the agreement is generally applicable when and if development occurs, and they can continue to live on their properties without paying anything.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Council Member Mounce made a motion, second by Mayor Pro Tempore Katzakian, to adopt

Resolution No. 2008-249 approving Reimbursement Agreement No. RA-08-01 for Public Improvements constructed with the Vintner's Square shopping center.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

I-2 Public Hearing to Consider Adoption of Resolution Levying Annual (2009) Assessment for Downtown Lodi Business Improvement Area No. 1 and Confirming the Downtown Lodi Business Partnership 2008-09 Annual Report (as Approved by Council on November 19, 2008) (CM)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution levying annual (2009) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2008-09 Annual Report (as approved by Council on November 19, 2008).

City Manager King briefly introduced the subject matter of levying the annual assessment for the Downtown Lodi Business Partnership (DLBP). He stated a report was received at the November 19, 2008, City Council meeting consistent with the requirements set forth in the Streets and Highways Code.

Council Member Johnson disclosed that he spoke with the Executive Director and some board members of DLBP regarding the operations and vision of the organization.

Hearing Opened to the Public

There were no verbal or written protests received in this matter.

Public Portion of Hearing Closed

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2008-250 levying annual (2009) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2008-09 Annual Report (as approved by Council on November 19, 2008).

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments - None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Hitchcock made a motion, second by Council Member Johnson, to approve the cumulative Monthly Protocol Account Report through November 30, 2008.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K. Regular Calendar

K-1 Conduct Public Meeting to Allow Public Testimony Regarding the Resolution of Intention to Expand the Lodi Tourism Business Improvement District to Include Flag City Hotels within the Business Improvement District (CA)

City Attorney Schwabauer provided an overview of the public comment and hearing requirements, the process for expansion of the Lodi Tourism and Business Improvement District (LTBID) to include Flag City hotels, the requirement of receiving additional public comments aside from the public hearing in January.

In response to Council Member Hitchcock, Mr. Schwabauer stated the Streets and Highways Code states that business improvement districts may be formed outside of the City's jurisdiction so long as there is consent of the affected jurisdiction. Mr. Schwabauer stated the County consented to the expansion as a part of the sewer service agreement.

In response to Council Member Johnson, Mr. King stated that, while the City cannot control physical expansion beyond its boundaries, for practical purposes it will not provide sewer service to additional areas, which will limit the expansion. Mr. Schwabauer and Mr. King stated the Flag City memorandum of understanding states the City will only provide sewer service to the existing area and also provides for a gallon limit, which prevents high-intensity users and would require the matter to come back before Council for further review.

In response to Mayor Hansen, Mr. King stated the County's position is that it will retain land use decisions, the lighting and landscaping district proposal fell through because of costs, and the County is generally accepting of the Flag City expansion but nothing else.

K-2 Adopt Resolution Authorizing the City Manager to Execute Agreements with San Joaquin County for Provision of Storm Water Service (Woodbridge) and Lodi Surface Water Treatment Plant Raw Water Pipeline (Lower Sacramento Road) (PW)

City Manager King briefly introduced the subject matter of the executive agreement with the County for storm water service and surface water treatment pipeline.

Public Works Director Wally Sandelin provided a presentation regarding the proposed agreements with the County. Mr. Sandelin specifically discussed the memorandum of understanding for storm drainage service to Woodbridge, the area location in the City's sphere of influence for utilities, calculations for the area, the eight-acre size of the property, partnership between the City and County along Lower Sacramento Road, the benefit to the City of no additional drainage occurrences, the position of the Woodbridge Irrigation to not allow additional discharge, permit requirements, County payment of related fees and maintenance of facilities

outside City limits, cooperative agreement for construction of Lower Sacramento Road, the water plant not being constructed prior to road construction, detailed design information, City responsibility of pipeline, and the matter being brought back to Council for payment options.

In response to Mayor Hansen, Mr. Sandelin stated the County is paying \$15,000 for operations and maintenance costs for a ten-year period, which will be reconciled at the end of the agreement.

In response to Council Member Mounce, Mr. Sandelin stated Woodbridge Irrigation District (WID) is probably not allowing additional discharge in light of the down hill farmers and the City.

In response to Council Member Mounce, Mr. Sandelin stated that, with respect to future residential development, development of the area would be restricted to current planning for the County, which is comparable to that of the City. The County representative also referenced that the area incorporates a cemetery and is designated as residential rural.

In response to Council Member Hitchcock, Mr. Sandelin stated currently the storm water sits along the roadway and there is a need to provide some improvements for safety reasons and to move the water. The County representative stated Woodbridge uses the Mokelumne River as its main discharge source.

Discussion ensued between Council Member Hitchcock and Mr. Sandelin regarding the ability of WID to refuse to allow additional discharge, winter and summer month flows, and the application to Lodi Lake and the route to the canal.

In response to Council Member Hitchcock, Mr. Sandelin stated the funding options will be brought back to Council, the proposed pipeline will connect what the City Council already approved for construction in relation to the surface water treatment facility.

In response to Council Member Johnson, Mr. Sandelin stated the 3.55 acres reflects the existing mobile park, a portion of which is used for storage, the engineering run off is characteristic of multi-family, and the trailer park is not in the current designation.

In response to Council Member Johnson, the County representative indicated the trailer park could be designated as a mobile home park technically; although, there is a higher level of pavement and asphalt with the park to the east. Mr. Schwabauer stated the cost may be higher with such a designation as well.

In response to Mayor Hansen, Mr. Schwabauer stated summer drainage into Lodi Lake is pretty remote and WID's main concern is with capacity, which is why it would be opposed to a storm drainage facility unless it were somehow using the water.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the discharge from DeBenedetti goes to Beckman and then to WID.

In response to Mayor Hansen, Mr. Sandelin stated the County is in the position of having to do this and the City is taking advantage of the opportunity to put the line in, which will be more costly to do at a later date, and would delay the water plant construction until 2015 if the City waited more than five years.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2008-251 authorizing the City Manager to execute agreements with San Joaquin County for provision of storm water service for a portion of the Woodbridge community and construction of the Lodi Surface Water Treatment Plant raw water pipeline in Lower Sacramento Road.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Mounce

Absent: None

K-3 Select Project Nominations for San Joaquin Council of Governments' One Voice Trip (CM)

City Manager King briefly introduced the subject matter of the One Voice trip, providing an overview of the selection process at the local and federal level, the history of the types of projects that are selected, and recommending the Lodi Lake Park Nature Area Protection Project and Interchange Reconstruction at Harney Lane and Highway 99 as the proposed priorities.

Council Member Hitchcock made a motion, second by Council Member Mounce, to select the following project nominations for San Joaquin Council of Governments' One Voice trip:

Priority 1 - Lodi Lake Park Nature Area Protection Project; and

Priority 2 - Interchange Reconstruction at State Route 99 / Harney Lane.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-4 Adopt Resolution Amending Memorandum of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit and the AFSCME Council 57 Local 146-AFL-CIO General Services Unit (CM)

City Manager King briefly introduced the subject matter of the proposed Memorandum of Understanding (MOU).

Human Resources Manager Dean Gualco provided a presentation regarding the proposed MOU with the General Services and Maintenance and Operators groups. Mr. Gualco specifically discussed the four negotiations that occurred this year, the anticipated four negotiations that will occur in the next year, the membership of 179 employees in both groups, representation by AFSCME, the expiration of the previous contract on June 30, 2008, ongoing discussions to amend the contract, bargaining team representatives from both sides and Council representation, and the tentative agreement terms, including the term of the agreement from July 1, 2008 to December 31, 2010, the 3% salary adjustment to be effective when the agreement is signed, future year increase from 3% to 5% based on the Consumer Price Index and General Fund growth by 1%, opt out provisions for declining health coverage when other coverage is available, on-call animal shelter supervisor to receive an additional \$25 per week, language regarding higher classification work and designation of the same, budget impact of \$88,000 which was budgeted for, and matching compensation for five confidential employees whose agreements mirror those of the two subject groups.

Council Member Hitchcock stated she will not be able to vote in favor of the proposed action due to her concerns about providing any increases in light of the budget situation at the State level and how it will affect the City.

Council Member Mounce made a motion, second by Mayor Hansen, to adopt Resolution No. 2008-252 amending Memorandum of Understanding between the City of Lodi and the AFSCME Council 57 Local 146-AFL-CIO Maintenance and Operations Unit and the AFSCME Council 57 Local 146-AFL-CIO General Services Unit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Hitchcock

Absent: None

K-5 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation and Various Other Cases Being Handled by Outside Counsel (\$249,215.57) (CA)

In response to Council Member Hitchcock, Mr. Schwabauer confirmed that the numerous depositions of Council Members, along with current and past employees, contributed to the higher cost of the invoices. Mr. Schwabauer also confirmed that the entries under the "General Advice" were groundwater contamination related.

Council Member Hitchcock made a motion, second by Council Member Mounce, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$249,215.57, as further detailed in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

L. Ordinances - None

M. Reorganization of the Following Agency Meetings: Lodi Public Improvement Corporation, Industrial Development Authority, Lodi Financing Corporation, and City of Lodi Redevelopment Agency NOTE: Joint action of the Lodi City Council and the Lodi Public Improvement Corporation (LPIC), Industrial Development Authority (IDA), Lodi Financing Corporation (LFC), and the Redevelopment Agency (RDA).

Council Member Johnson made a motion, second by Council Member Mounce, to adopt the following agency resolutions:

Resolution No. LPIC2008-02 electing officers of the Lodi Public Improvement Corporation;

Resolution No. IDA-30 amending Resolution No. IDA-29 by electing new officers of the Industrial Development Authority;

Resolution No. LFC-18 electing officers of the Lodi Financing Corporation; and

Resolution No. RDA2008-08 electing officers of the City of Lodi Redevelopment Agency and waiving compensation for the December 17, 2008, meeting.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

N. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:11 p.m.

ATTEST:

Randi Johl
City Clerk